

Basic Steps for Handling a Small Claims Case for Replevin (Recovery of Property)

- A. Personal Property worth \$5,000 or less; OR
- B. Consumer Credit Transactions with \$25,000 or less financed

Waukesha County



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<https://prosmallclaims.wicourts.gov>

10 Basic Steps for Handling a Small Claims Case for Replevin (Recovery of Property)

Any forms mentioned in this basic guide may be obtained from the Clerk of Court or online at

<http://www.wicourts.gov/forms1/circuit.htm>

- ☐ 1. **Determine which type of replevin case to file and then decide in which county you will file your case.** Small Claims cases for recovery of property may be filed in any of three places:
 - A. Personal Property worth \$5,000 or less - use Summons and Complaint form (SC-500i):
 - The county where the claim arose,
 - The county where the property is located, or,
 - The county where the defendant (the party you are suing) lives or does business.
 - B. Consumer Credit Transactions - use Summons for Consumer Replevin form (SC-516):
 - Where the customer resides or is personally served,
 - Where the collateral (property) is located, or,
 - Where the customer sought or acquired the property.
- ☐ 2. **Fill out a Small Claims Summons and Complaint form or Summons for Consumer Replevin form.** The forms (SC-500i and SC-516) have step-by-step instructions on the left side. If you are filing a consumer credit replevin case, you must draft a complaint and attach it to the Summons. Once you have filled out the appropriate form, you should make at least two copies for each party you are suing and a copy for yourself.
- ☐ 3. **File the Summons and Complaint.** The Summons and Complaint and **all copies** must be filed and a fee paid to the Clerk of Court in the county where you are filing your case.
- ☐ 4. **Have each party you are suing served with a copy of the Summons and Complaint.** For the court to hear the case, each party must be provided with a copy of the Summons and Complaint far enough in advance of the first court date. The documents must be served by a sheriff or a private process server ("personal service"). See Pre-Judgment: Basic Steps to Small Claims Service (SC-6050V) for additional information.
- ☐ 5. **Complete an Affidavit of Nonmilitary Service (GF-175) for each party you are suing.**
- ☐ 6. **File your proof(s) of service and Affidavit(s) of Nonmilitary Service with the Clerk of Court.** File the Affidavit(s) of Nonmilitary Service and the proof(s) of service you received from the sheriff or private process server at or before the first court date.
- ☐ 7. **Attend the first court date.**
 - All parties are required to attend the first court date.
 - Specific instructions apply for Waukesha County cases - call the Clerk's office for information. 262-548-7525 OR 262-548-7556.
 - The defendant is required to file a written answer only if the matter is contested.
 - If both the plaintiff and the defendant attend the first court date and the matter is contested, your answer must be filed if not already on file. Parties may be sent to mediation orientation; if not resolved, matter will be scheduled for a pre-trial conference.
 - If the plaintiff attends the first court date but the defendant has neither attended the first court date nor filed a written answer, the plaintiff wins and the judgment is granted.
 - If the plaintiff does not attend the first court date but the defendant does, the defendant may ask for dismissal and the court official will decide.
 - If neither the plaintiff nor defendant attend the first court date, the case is set on the dismissal calendar with one final notice to each party.
 - If the plaintiff is granted a judgment by default (the defendant does not appear at the first court date), the defendant must file a "Petition to Answer or to Reopen Small Claims Judgment and Order" in order to get the case reopened.
 - If the defendant is granted a dismissal (the plaintiff does not appear at the first court date), the plaintiff must file a "Petition to Answer or to Reopen Small Claims Judgment and Order" in order to have the case reopened.

If the court grants you a judgment, skip to number 10 below and file the necessary paperwork.

- ☐ 8. **If there is a disagreement, the court will schedule a trial.** Before the trial, you may contact the other party to try to settle your case. We provide mandatory mediation orientation for pro se parties; the mediation process is optional. It is recommended the parties attend mediation. Mediators are available at a cost. If you reach an agreement, put your agreement in writing and file it with the Clerk of Court before the trial. You may use the form Stipulation and Order for Dismissal (Non-Eviction) (SC-5310V) to do this. If you have not reached an agreement before the trial, organize your paperwork and evidence in support of your claim and make enough copies for the court and all parties. If you have witnesses, arrange for them to attend. Practice what you are going to say. Bring your documents or statements to the trial.
- ☐ 9. **Attend the trial.** Be on time and be polite. Don't get emotional. Explain why the court should give you what you are asking for. The court will review your evidence and listen to your witnesses, if any. When the court makes its decision, listen carefully. See the instructional packet, Basic Guide to Wisconsin Small Claims Actions (SC-6000V) for additional information about preparing and participating at trial.
- ☐ 10. **Complete any post-decision activities.** If you are granted a judgment of replevin and you want the sheriff to help you recover the property, you must pay a fee to obtain a writ of replevin from the Clerk of Court. Take the writ to the sheriff. You will be required to pay a service fee to the sheriff. You may also be required to provide a bond to the sheriff. Contact the local sheriff's department for additional information.

Important Court Related Offices

Small Claims Division

Physical Address:

Courthouse
P.O. Box 1627
515 W. Moreland Blvd
Waukesha, WI 53187-1627

Mailing Address:

Same

Phone:262-548-7525

Contact:Customer Service Representative

Directions:Located on 1st floor of the courthouse in Rooms C-153 and C-167

Court Self-Help Center/Services

Self-Help Services are not available in Waukesha County, however it is recommended that you have a friend or relative review your forms for completeness.

Forms are available at:

Location:Room C-167

Cost of Small Claims Form Packets:None

Americans With Disabilities Act

If you need accommodations for a disability contact:
Small Claims Calendar Clerk
262-548-7557

Notary Public Services

Directions:Civil Division - 1st floor - Rm. C-167

Fee:None

Location:Clerk of Courts

Copy Services

A copy machine is available in the Courthouse. It is located in Administration Building, Rm. G-10 for \$0.15 per page.

The Clerk's office will not be able to make copies for you.

Process Service

Sheriff's Department

Name/Agency/Unit:Waukesha Sheriff Process Division

Address: 515 W. Moreland Blvd
Waukesha, WI 53188

Phone:262-548-7151

Fee:\$50.00 A prepayment fee is charged.

Other Professional Process Services Available Locally

There are private process servers in Waukesha County.